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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/833,099 04/11/2001 Gregory J. Speicher 935-012 1374

32376 7590 10/03/2007

LAWRENCE R. YOUST
2001 Ross Avenue
Suite 3000
DALLAS, TX 75201

EXAMINER

PHUNKULH, BOB A

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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10/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/833,099	Applicant(s) SPEICHER, GREGORY J.	
	Examiner Bob A. Phunkulh	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 July 2007.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 3 and 5-26 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 3 and 5-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

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DETAILED ACTION

This communication is in response to applicant's 08/17/2006 request for pre-appeal conference in the application of **SPEICHER** for "INTERNET-AUDIOTEXT ELECTRONIC ADVERTISING SYSTEM WITH PSYCHOGRAPHIC PROFILING AND MATCHING" filed 04/11/2001. The amendment/response to the claims have been entered. No claims have been canceled. No claims have been added. Claims 3-26 are now pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over *LUPIEN* et al. (US 5,689,652), hereinafter *LUPIEN*, in view of *CHATER* et al. (US 5,598,351), hereinafter *CHATER*.

Regarding claims 3, 9, 11, 17, 19, 25, *LUPIEN* discloses a method for a computer comprising the steps of:

administering to a first user a first test via the Internet (see col. 5 lines 36-45) where the first test (as shown in figure 4, there are many visual images i.e. 50-59, 40-46, etc.);

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storing the first user's preferences and generating a profile of the first user according to the visual preferences of the first user (storing the buyer profile in the data base 4, see figure 1);

administering to a second user a second test via the Internet (see figure 4 for seller);

generating a profile of the second user according to the results of the second test (storing the seller profile in the data base 4, see figure 1);

comparing the profile of the first user to the profile of the second user; and matching the first user with the second user according to visual preferences, whenever the profile of the first user matches the profile of the second user (see col. 4 lines 10-26)

LUPIEN fails to explicitly disclose presenting a set of at least two visual images or video to the first user and receiving the first user's preference based on the visual image or video.

CHATER, on the other hand, discloses providing visual images/ video images to the user in on-line dating communication system (see col. 1 lines 24-46).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made including the teaching of *CHATER* especially providing the video images in the user's terminal in the system taught by *LUPIEN* in order to provides potential user's i.e. employer or the opposite sex in on-line dating service with ability to better screen potential employee or mate.

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Regarding claims 10, 18, and 26, *LUPIEN* discloses the matching occurs with a partial match of the first and second's user's preferences (degree of mutual satisfaction, see col. 4 lines 17-26).

Regarding claims 5-8, 12-16, 20-24, *LUPIEN-CHATER* fails to disclose that the notifying/contacting the first user via email or telephone.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to notify the first user via e-mail or telephone (widely available and used) in order to provides information to the buyer/seller with whether the order has been executed.

Response to Arguments

Applicant's arguments with respect to claims 3, 5-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any response to this action should be mailed to:

The following address mail to be delivered by the United States Postal Service (USPS) only:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

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(571) 273-8300, (for formal communications intended for entry)

Or:

The following address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, Hand Delivery, etc.) as follow:

U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Tuesday from 8:00 A.M. to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Jay Patel**, can be reach on **(571) 272-2988**. The fax phone number for this group is **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Bob A. Phunkulh
Primary Examiner
TC 2600
Technology Division 2616
October 01, 2007

**BOB PHUNKULH
PRIMARY EXAMINER**